

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,088

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying coverage for orthodontic work.

FINDINGS OF FACT

1. The petitioner is a sixteen-year-old girl who receives dental coverage through the Medicaid program.
2. On April 30, 1997, she applied for authorization of payment for orthodontic treatments through Medicaid. In support of her application, she provided a form prepared by Medicaid but filled out by her orthodontist on which he was to check whether any major diagnostic criteria (cleft palate, 2 impacted cuspids, or other severe crania-facial anomaly) or minor criteria (1 impacted cuspid, 2 blocked cuspids, 3 congenitally missing teeth per arch, anterior open bit 3 or more teeth, crowding per arch, anterior crossbite, traumatic deep bite impinging on palate or overjet) existed. The form informed him that eligibility for orthodontic treatment required that the malocclusion be severe enough to meet a minimum of 1 major or 2 minor diagnosed treatment criteria. He did not check the boxes in either criteria. Instead he wrote "Class I, Peg #10."
3. On May 10, 1997, the application was reviewed by the dental division and it was determined that the patient was not qualified because she did not meet the major or minor criteria. On May 13, 1997, the petitioner was notified that her orthodontic treatment would not be covered because it was not "severe enough."
4. At hearing, the petitioner presented a letter from her orthodontist diagnosing her condition as
 - An imbalance in the growth of the jaws, with excess lower jaw growth relative to upper jaw growth.
 - Class I, or balanced front to back dental occlusion
 - Excess space between the teeth in the upper jaw. - The midlines of the upper and lower front teeth do not line up.

- Missing permanent teeth

- Peg #10

5. The Department takes the position that this diagnosis still does not meet any of the major or minor criteria listed in Number 2 above. The petitioner presented no further evidence indicating that her diagnosis meets any of the criteria above.

ORDER

The decision of the Department is affirmed.

REASONS

The Department has adopted regulations for the coverage of orthodontics in the Medicaid program which reads as follows:

Coverage of orthodontic services is limited to Medicaid recipients under the age of 21. Payment will be made when services are provided in accordance with an approved plan of treatment. Approvals are granted for treatment periods of six months. Bills must be submitted and payments will be made consonant with approved six month periods. . . .

M620.1

The Department uses written guidelines which allow approval for only those plans of treatment which meet either one major or two minor criteria as set forth in paragraph two above. The petitioner does not argue either that she meets those criteria or that the criteria are unreasonable or illegal. As the Department's decision is in accord with its regulation, it must be upheld. 3 V.S.A. § 3091(d).

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